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Attorneys for Defendant:
DRIFTWOOD HAYWARD OPERATING
COMPANY, LLC dba DRIFTWOOD
HEALTHCARE CENTER – HAYWARD

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

EVELYN PORTER, individually and as)	Case No.: 3:16-cv-1586
successor in interest to the ESTATE OF)	
MINNIE GARRETT, HUMPHREY)	JOINT STIPULATION AND ORDER TO
GARRETT, LAWRENCE GARRETT,)	REMAND ACTION BACK TO STATE
TOMMY GARRETT, VIRGINIA)	COURT
GARRETT, DENISE DEWS, LEVI)	
PERRY and GREGORY GARRETT, SR.)	

Plaintiffs,

vs.

DRIFTWOOD HAYWARD
OPERATING COMPANY, LLC d/b/a
DRIFTWOOD HEALTHCARE
CENTER-HAYWARD, DRIFTWOOD
HEALTHCARE & WELLNESS
CENTER, LLC, NATHANETTE
FIELDS, MARGARITA MCKEEVER,
MAZETTA GARRETT, and DOES 1 to
20, inclusive,

Defendants.

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1 WHEREAS on March 31, 2016, Defendant DRIFTWOOD HAYWARD OPERATING
2 COMPANY, LLC dba DRIFTWOOD HEALTHCARE CENTER – HAYWARD removed this
3 action from the Superior Court of California to the U.S. District Court based on the diversity of
4 the parties.

5 WHEREAS in support of diversity jurisdiction, Defendant DRIFTWOOD HAYWARD
6 OPERATING COMPANY, LLC dba DRIFTWOOD HEALTHCARE CENTER – HAYWARD
7 relied upon a Response to a Statement of Damages served by Plaintiffs on March 21, 2016 to
8 establish that amount in controversy was over \$75,000.00. This Response to Defendant's
9 Statement of Damages was the first Court-filed, or otherwise admissible evidence, suggesting
10 that the amount in controversy was over \$75,000.00.

11 WHEREAS shortly after Defendant filed its Notice of Removal, Plaintiffs' Counsel
12 forwarded correspondence citing to multiple authorities standing for the proposition that the
13 amount in controversy was established in certain correspondence authored by Plaintiffs in
14 anticipation of mediation in November of 2015. As a result, it is Plaintiffs' contention that the
15 deadline for removal had lapsed.

16 WHEREAS upon consideration of the legal authorities submitted by Plaintiffs,
17 Defendant DRIFTWOOD HAYWARD OPERATING COMPANY, LLC dba DRIFTWOOD
18 HEALTHCARE CENTER – HAYWARD is now of the opinion that its removal of the instant
19 action was untimely, and as a result, this Court should remand the action back to the Superior
20 Court of California without the need for a formal Motion for Remand to be filed by Plaintiffs.

21
22 THEREFORE, it is stipulated between the parties as follows:

- 23 1. Without the need for formal law and motion, this action should be remanded back to
24 the Superior Court of California as the removal of this action was untimely pursuant
25 to 28 U.S.C. §1446(b)(3).

26 ///

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IT IS SO STIPULATED:

Dated: April 6, 2016

BRACAMONTES & VLASAK

/s/ Michael R. Bracamontes

Michael R. Bracamontes

Attorneys for Plaintiffs

Humphrey Garrett, Denise Dews, Virginia Garrett,
Tommy Garrett and Lawrence Garrett, as
successors in interest, and individually

Dated: April 6, 2016

LAW OFFICES OF GEORGE HOLLAND

/s/ George Holland

George Holland

Attorneys for Plaintiff

Evelyn Porter, as successors in interest, and
individually

Dated: April 6, 2016

GIOVANNIELLO LAW GROUP

By: /s/ Thomas C. Swann

Alexander F. Giovannello

Thomas C. Swann

Attorneys for Defendant

DRIFTWOOD HAYWARD OPERATING
COMPANY, LP dba DRIFTWOOD
HEALTHCARE CENTER – HAYWARD

IT IS SO ORDERED:

1. Without the need for formal law and motion, this Court hereby remands the action back to the Superior Court of California as the removal of this action was untimely pursuant to 28 U.S.C. §1446(b)(3).

Dated: 4 / 26, 2016



Judge of the United States District Court –
Northern District of California

PROOF OF SERVICE

I am employed in the county of Orange, State of California. I am over the age of eighteen years and not a party to the within entitled action; my business address is One Pointe Drive, Suite 300 Brea, California 92821.

On **April 6, 2016**, I served the foregoing document(s) described as, **JOINT STIPULATION AND ORDER TO REMAND ACTION BACK TO STATE COURT**, by placing the true copies thereof enclosed in sealed envelopes address as follows:

SEE SERVICE LIST ATTACHED

(XX) BY U.S. MAIL: I am "readily familiar" with the business practice for collection and processing of correspondence for mailing with the United States Postal Service. Under that practice the envelope was sealed and placed for collection and mailing with the United States Postal Service on that same day with postage thereon fully prepaid at Brea, California following ordinary business practices.

() BY PERSONAL SERVICE: I personally delivered the documents to the person(s) at the address(es) listed above (or on the attached service list). (1) For a party represented by an attorney, delivery was made to the attorney or at the attorney's office by leaving the documents in an envelope or package clearly labeled to identify the attorney being served, with a receptionist or an individual in charge of the office between the hours of nine in the morning and five in the evening. (2) For a party, delivery was made to the party or by leaving the documents at the party's residence with some person not younger than 18 years of age between the hours of eight in the morning and six in the evening.

() BY OVERNIGHT DELIVERY: I placed said envelope(s) for collection and overnight delivery at a regularly utilized drop box of the overnight delivery carrier.

() BY FAX TRANSMISSION: I faxed said document(s) to the person(s) indicated on the service list.

() BY ELECTRONIC SERVICE: I caused the document(s) to be sent to the person(s) at the electronic notification addresses listed on the service list.

Executed on **April 6, 2016**, at Brea, California.

(XX) STATE: I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.


Jenna Milnik

Evelyn Porter, et. al. v. Driftwood Hayward Operating Company, LLC, et. al.

Case No.: 4:16-cv-1586

SERVICE LIST

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